

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Original Jurisdiction

Dated: Nainital the 12th day of June, 2002

Criminal Misc. Bail Application Number 501 of 2002

Order on the Bail Application

CRIMINAL SIDE

Mukesh son of Sri Magan Pal Singh, resident of village Tebri, Police Station Ranipur,
District Hardwar

.....Applicant(s)

Versus

State of Uttaranchal.

.....Opposite Party

Arising out of- Case crime no. 635 of 2001,
Under section 302/120-B of the I.P.C.,
Police Station Kotwali, Hardwar
District Hardwar

By the Court

Hon'ble Irshad Hussain, J.

Heard the learned counsel for the applicant and the learned A.G.A.

Applicant-accused had claimed bail under the provisions of Section 167(2)(a) of the Code of Criminal Procedure in view of the charge-sheet having not been filed within the period of ninety days. To take the benefit of the provisions, it is necessary that the application for bail on this ground should be filed before the filing of the charge-sheet in the court of the Magistrate. Bail application dated 22.01.2002 (paper no.15) indicate that till date, the charge-sheet was not filed before the learned Magistrate. Paper no. 14 is the copy of the order-sheet dated 22.01.2002 indicating that on this date, the charge-sheet was filed before the Magistrate. Paper no. 16 is the order dated 22.01.2002 of rejection of the bail by the C.J.M., Hardwar indicating that the charge-sheet was filed on that day and it has not been mentioned that the charge-sheet had in fact been filed before the submission of the bail application on behalf of the applicant-accused. The applicant-accused was taken on remand for the first time on 22.10.2001 and when the charge-sheet was filed on 22.01.2002, it was the 93rd day indicating that the applicant-accused was entitled to the benefit of above mentioned porovision in view of application having been filed for bail claiming the benefit of the said provision. Considering the mandate of the provision, learned Magistrate should have enlarged the applicant-accused on bail. However, the application was rejected. Considering the right available to the applicant-accused in view of the above provision of law, the application for bail is allowd and the applicant-accused is admitted to bail.

Let the applicant-accused Mukesh son of Sri Magan Pal Singh, resident of village Tebri, Police Station Ranipur, District Hardwar be released on bail in case crime no. 635 of 2001, under section 302/120-B of the I.P.C., Police Station Kotwali, Hardwar, District Hardwar on his furnishing a personal bond and two sureties each to the satisfaction of the C.J.M., Hardwar.

Irshad Hussain, J.

12.06.2002./B.